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Michael D. Kotzin

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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte* MICHAEL D. KOTZIN and RACHID ALAMEH

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Appeal 2009-007691  
Application 10/814,485<sup>1</sup>  
Technology Center 2600

Before KENNETH W. HAIRSTON, MARC S. HOFF,  
and ELENI MANTIS MERCADER, *Administrative Patent Judges*.

HOFF, *Administrative Patent Judge*.

DECISION ON APPEAL<sup>2</sup>

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<sup>1</sup> The real party in interest is MOTOROLA, INC.

<sup>2</sup> The two-month time period for filing an appeal or commencing a civil action, as recited in 37 C.F.R. § 1.304, or filing a request for rehearing, as recited in 37 C.F.R. § 41.52, begins to run from the “MAIL DATE” (paper delivery mode) or the “NOTIFICATION DATE” (electronic delivery mode) shown on the PTOL-90A cover letter attached to this decision.

## STATEMENT OF THE CASE

Appellants appeal under 35 U.S.C. § 134(a) from a Final Rejection of claims 1-21. We have jurisdiction under 35 U.S.C. § 6(b).

We reverse.

Appellants' invention relates to a handheld electronic device including at least one context sensor, a microprocessor, and a user interface. The context sensor detects a contextual characteristic of the device (e.g., ambient light, motion of the device, proximity to or contact with another object, or how the user is holding the device) . Additionally, a virtual output representative of the sensed characteristic associated with a data management function of the device is generated by the context sensor. A virtual physical representation of the sensed characteristic is displayed on the user interface in response to the execution of the data management function. In the alternative, the virtual physical representation may be related to the data management function. (Abstract; Spec. 4:7-18).

Claim 1 is exemplary:

1. A method of representing content management in an electronic device having a context sensor:
  - receiving signals from a context sensor;
  - determining a contextual characteristic of the device based on the received context sensor signals;
  - associating the determined contextual characteristic with a data management function of the device; and
  - determining a virtual physical representation to be output in response to the execution of the data management function.

The prior art relied upon by the Examiner in rejecting the claims on appeal is:

Steele

US 5,169,342

Dec. 8, 1992

Claims 1-16 and 20-21 stand rejected under 35 U.S.C. § 102(b) as being unpatentable over Nykanen.

Claims 17-19 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Nykanen in view of Steele.

Rather than repeat the arguments of Appellants or the Examiner, we make reference to the Appeal Brief (filed July 3, 2008) and the Examiner's Answer (mailed September 19, 2008) for their respective details.

### ISSUE

Appellants contend that Nykanen fails to teach "determining a virtual physical representation to be output in response to the execution of the data management function" (App. Br. 5). Appellants argue that the wireless device disclosed in Nykanen that signals an alarm and provides suggestions for medication is not the same as determining a virtual physical representation to be output in response to the execution of the data management function as recited in the claims (App. Br. 6). Accordingly, Appellants conclude that the reference teaches away from determining a virtual physical representation (App. Br. 6-7).

Appellants' contentions present us with the following issue:

1. Do the references disclose a method of representing content management in an electronic device that includes a step of "determining a virtual physical representation to be output in response to the execution of the data management function"?

## FINDINGS OF FACT

The following Findings of Fact (FF) are shown by a preponderance of the evidence.

### *The Invention*

1. The user interface of the handheld electronic device provides virtual physical feedback to the user which corresponds to the sensed environmental or contextual characteristic. Virtual physical feedback is a presentation of information that generally illustrates common physical properties which are generally understood. More particularly, virtual physical representation is a presentation that a user can easily relate to which follows basic physical science principles that are commonly understood by the user. Specifically, a virtual physical representation of the data management function of transferring a file from one device 100 to another device 102 may be an animated graphic of a glass filling up with water as the data is transferred (Spec. 3:17-23; 5:1-9).

### *Nykanen*

2. Nykanen discloses a wireless device 100 that performs initial sampling and digitization of sensor inputs from sensors 122, 124, 125, 126, 128, 132, and 134 within a context interference engine 136. The context interference engine 136 processes the metadata vector 138 to produce the current context. If the context interface engine 136 needs the processing power or storage capacity available at a network server 140, the metadata vector 138 is sent from the wireless device 100 to the context interference engine 142 in the network server 140 (Figs. 1, 2, and 2A; ¶¶ [0092] and [0093]).

3. Nykanen discloses that the wireless device 100 has a training mode, wherein the user may train the phone to read all the sensors when the user is healthy and well rested and when the user is healthy and fatigued. During normal operation, the sensor signals are processed into a metadata vector which is compared with standard statistical models stored in the user database 146 of handle “good\_health\_resting\_normally” and “good\_health\_fatigued;” wherein the most likely match is then associated with the touch recognition result. As a result, a health maintenance application within the wireless device 100 signals an alarm and provides suggestions for medication to palliate the sensed fatigue of the user from network server 140 (Fig. 2A; ¶¶ [0115-18]).

#### PRINCIPLES OF LAW

Anticipation pursuant to 35 U.S.C § 102 is established when a single prior art reference discloses expressly or under the principles of inherency each and every limitation of the claimed invention. *Atlas Powder Co. v. IRECO Inc.*, 190 F.3d 1342, 1347 (Fed. Cir. 1999); *In re Paulsen*, 30 F.3d 1475, 1478-79 (Fed. Cir. 1994).

On the issue of obviousness, the Supreme Court has stated that “the obviousness analysis cannot be confined by a formalistic conception of the words teaching, suggestion, and motivation.” *KSR Int’l Co. v. Teleflex Inc.*, 550 U.S. 398, 419 (2007). Further, the Court stated “[t]he combination of familiar elements according to known methods is likely to be obvious when it does no more than yield predictable results.” *Id.* at 416.

## ANALYSIS

### *Claims 1-16 and 20-21*

Independent claim 1 recites “determining a virtual physical representation to be output in response to the execution of the data management function.” Independent claims 10, 11, and 12 recite a similar claim limitation.

We consider Appellants’ arguments *supra* to be persuasive to show Examiner error. Although Nykanen discloses a health maintenance application that can process the contextual characteristic of the mobile device with respect to the user and, in response, signal an alarm corresponding to a sensed fatigue (physical condition) of the user while providing suggested medication, we agree with Appellants that an alarm and a list of medications is not the same as “determining a virtual physical representation to be output in response to the execution of the data management function” (App. Br. 6; Ans. 6; FF 3).

In an effort to give the claims their broadest reasonable construction, we look to the Specification, which discloses that a “virtual physical representation” for the data management function of transferring a data file is a presentation (that a user can easily relate to) that follows basic physical science principles which are commonly understood by the user, such as a glass filling up with water representing data transferred from one wireless device to another (FF 1). Nykanen, however, provides a list of suggested medications at the user interface of the wireless device 100 that corresponds with the health of the user (FF 3). Although the displayed list of suggested medication is transferred from the network server 140, this list does not relate to the data management function of transferring a data file. Further,

the list is not a virtual physical representation of the data management function of transferring a file that follows easily understood basic science principles. More particularly, Nykanen is *silent* as to providing a virtual physical representation at the user interface, in addition to the list, that represents the data management function of transferring data from user database 146 to wireless device 100 (FF 3).

Therefore, we find that Nykanen does not teach all of the limitations of representative claim 1. As a result, we will not sustain the Examiner's § 102 rejection of claims 1-16 and 20-21.

#### *Claims 17-19*

Appellants argue that claims 17-19 are patentable over the cited prior art because the claims depend from claim 12 and because Steele does not cure the deficiencies asserted with respect to the Nykanen reference (App. Br. 7). Appellants further assert that the Examiner has failed to provide a convincing line of reasoning for combining the references (App. Br. 8).

As noted *supra*, we reversed the rejection of claim 12 from which claims 17-19 depend. We have reviewed Steele (the additional reference applied by the Examiner to reject these claims), and find that the cited reference does not cure the cited deficiencies of Nykanen.

We therefore reverse the Examiner's rejection of claims 17-19 under 35 U.S.C. § 103, for the same reasons expressed with respect to the rejection of parent claim 12, *supra*.

#### CONCLUSION

The references do not disclose a method of representing content management in an electronic device that includes a step of “determining a

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virtual physical representation to be output in response to the execution of the data management function.”

ORDER

The Examiner’s rejection of claims 1-21 is reversed.

REVERSED

ELD

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